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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,350	04/21/2004	John Hildreth	3845-001-27	6699
24510 7590 01/04/2007 DLA PIPER US LLP ATTN: PATENT GROUP 1200 NINETEENTH STREET, NW WASHINGTON, DC 20036			EXAMINER CHAPMAN, JEANETTE E	
			ART UNIT	PAPER NUMBER
			3635	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/828,350	HILDRETH, JOHN	
	Examiner	Art Unit	
	Chapman E. Jeanette	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-12 is/are rejected.
- 7) ☒ Claim(s) 6 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/9/06</u> .   | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 3635

Claims 14-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/25/06.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 1-5 and 7-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Digirolamo et al (6892504) (dG). dG discloses a shear wall comprising:

- An upper channel 12
- A lower channel 14
- A plurality of spaced apart studs 16 connected between the upper channel 12 and the lower channel 14; The plurality of studs 16 including
  - a first stud connected to the upper channel 12 near a first end of the upper channel to form a first corner and connected to the lower channel near a first end of the lower channel to form a second corner; see annotations below
  - a second stud connected near a second end of the upper channel to form a third corner and near a second end of the lower channel to form a fourth corner

Art Unit: 3635

- a plurality of interior studs spaced between the first and second studs
  - each of the interior studs having at least two holes 18 formed therein and having a front and rear face
- a first rod 22 connected to the wall near the first and fourth corners
- a second rod 22 connected to the wall near the second and third corners
- each of the first and second rods 22 pass through one of the holes 18 in the interior of the studs such that neither the first nor the second rod pass the front face or the rear face of any interior stud
- the studs and the channel are made from metal; steel is a type of metal
- the first and second rods are attached to an upstanding anchor plate 30 or 40 or 106 connected to a top of the wall near the first corner and a second anchor plate connected to the top of the wall near the third corner; see figures 1 and 16; the shape of the plate is immaterial given that the limitations and function of the claim are clearly met; one of ordinary skill in the art would have appreciated using any shape providing for the intended function of the shear wall
- anchor plates has plurality of threaded holes formed therein; see figure 9; the threaded holes formed in the anchor plate are formed by securing a threaded nut to the anchor plate; the anchoring plate anchored to thread nut is an obvious method limitations to further securely anchor the structure.

Art Unit: 3635

- A first hollow space 50 connected between the wall the anchor plate near the first corner and second hollow spacer 50 connected between the wall and the anchor plate near the second plate
- The rod includes a turnbuckle 120 whereby the rod may be tensioned by adjusting the turnbuckle 120
- each end of the rod is threaded; see figures 11 and 16; a first end of each rod has a right hand thread, a second end of each rod has left thread and wherein each upstanding plate has a block 30/50 attached to it, the block having a hole threaded to mate with a respective threaded end of a rod.
- The blocks 30 corresponding to the first rod are attached to a first side of respective upstanding plate and blocks corresponding to the second rod are attached to an opposite side of a respective plate such that the first and second rods do not interfere with each other where they cross.

***Allowable Subject Matter***


Claims 6 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

Art Unit: 3635

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAKO SLACK can be reached on 571-272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JEANETTE CHAPMAN  
PRIMARY EXAMINER  
ART UNIT 3635

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